

Before the  
Federal Communications Commission  
Washington, D.C. 20554

MM Docket No. 92-16

In the Matter of

Amendment of Section 73.202(b), RM-7887  
Table of Allotments,  
FM Broadcast Stations.  
(Hazelhurst, Jeffersonville,  
Mt. Vernon, Sandersville,  
Soperton and Tennille, Georgia)

**NOTICE OF PROPOSED RULE MAKING  
AND ORDER TO SHOW CAUSE**

Adopted: January 29, 1992; Released: February 7, 1992

Comment Date: March 30, 1992

Reply Comment Date: April 14, 1992

By the Assistant Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed jointly by Jeff Davis Broadcasters ("Jeff Davis"), licensee of Station WVOH(FM), Channel 228A, Hazelhurst, Georgia, ALP Limited Partnership ("ALP"), permittee of Station WWST(FM), Channel 229A, Jeffersonville, Georgia, and Wesley James Holden ("Holden") (jointly referred to as "petitioners"). Petitioners request the substitution of Channel 228C2 for Channel 228A at Hazelhurst, Georgia, and the modification of Station WVOH(FM)'s license accordingly; the substitution of Channel 229C2 for Channel 229A at Jeffersonville, Georgia, and the modification of the construction permit for Station WWST(FM) accordingly; and the allotment of Channel 269A to Mt. Vernon, Georgia, as that community's first local FM transmission service. The upgrades at Hazelhurst and Jeffersonville require the substitution of Channel 260A for Channel 228A at Sandersville, Georgia, and the modification of Station WSNT(FM)'s license to specify Channel 260A; the substitution of Channel 291A for Channel 269A at Soperton, Georgia, and the modification of Station WKTM(FM)'s license to specify Channel 291A; and the substitution of Channel 270A for vacant but applied for Channel 260A at Tennille, Georgia.<sup>1</sup> Jeff

Davis, ALP and Holden state that they will apply for the Hazelhurst, Jeffersonville, and Mt. Vernon channels respectively, if allotted.

2. We believe the public interest would be served by consideration of this proposal. Mt. Vernon, a community of 1,737 persons,<sup>2</sup> would receive its first local FM transmission service. In addition, the communities of Hazelhurst and Jeffersonville would receive expanded area FM services. Channel 228C2 can be substituted for Channel 228A at Hazelhurst, Georgia at its current licensed transmitter site,<sup>3</sup> and the license for Station WVOH(FM) modified accordingly, in compliance with the Commission's spacing requirements, provided Channel 260A is substituted for Channel 228A at Sandersville, Georgia, and Channel 270A is substituted for Channel 260A at Tennille, Georgia. Channel 260A can be allotted to Sandersville at its current transmitter site for Station WSNT(FM),<sup>4</sup> and Channel 270A can be allotted to Tennille in compliance with the Commission's minimum spacing requirements with a site restriction 7.2 kilometers (4.5 miles) south.<sup>5</sup> Channel 229C2 can be substituted for Channel 229A at Jeffersonville in compliance with the Commission's spacing requirements with a site restriction of 17.4 kilometers (10.8 miles) northwest of the community.<sup>6</sup> Channel 269A can be allotted to Mt. Vernon, Georgia, in compliance with the Commission's spacing requirement, with a site restriction 4.4 kilometers (2.7 miles) east,<sup>7</sup> provided Channel 291A is substituted for Channel 269A at Soperton, Georgia, and the license for Station WKTM(FM) modified accordingly.<sup>8</sup>

3. As requested, we shall propose to modify the license of Station WVOH(FM), Hazelhurst, Georgia, to specify operation on Channel 228C2 in lieu of Channel 228A, and the construction permit of Station WWST(FM), Jeffersonville, Georgia, to specify operation on Channel 229C2 in lieu of Channel 229A, in accordance with Section 1.420(g) of the Rules, without entertaining other expressions of interest or requiring the parties to demonstrate the availability of an additional equivalent channel for use by any such interested parties. We will also propose the allotment of Channel 269A to Mt. Vernon, Georgia, as that community's first local FM service. The license for Station WSNT(FM), Sandersville, Georgia, can be modified to specify operation on Channel 260A in lieu of Channel 228A, the license for Station WKTM(FM), Soperton, Georgia, can be modified to specify operation on Channel 291A in lieu of Channel 269A, and Channel 270A can be substituted for Channel 260A at Tennille, Georgia. A Commission engineering analysis indicates that if the Tennille channel substitution was adopted, the sites specified in the pending applications for Tennille would be short-spaced to Station WTHO(FM), Channel 269A, Thomson, Georgia. The applicants would be permitted to amend their applications to specify nonconflicting sites without loss of cut-off protection since the channels are of an equivalent class. See *Andalusia, AL*, 49 FR 32201 (Aug. 13, 1984); see also *Salmanca*,

<sup>1</sup> The applicants at Tennille are Broadcast Media, Co. (File No. BPH-901227MA) and Lee M. Pierce, Sr. (File No. BPH-901227MB).

<sup>2</sup> Population figures are taken from the 1980 U.S. Census.

<sup>3</sup> The coordinates for Channel 228C2 at Hazelhurst are North Latitude 31-51-15 and West Longitude 82-34-00.

<sup>4</sup> The coordinates for Channel 260A at Sandersville are North Latitude 32-58-23 and West Longitude 82-48-34.

<sup>5</sup> The coordinates for Channel 270A at Tennille are North Latitude 32-56-24 and West Longitude 82-48-06.

<sup>6</sup> The coordinates for Channel 229C2 at Jeffersonville are North Latitude 32-47-00 and West Longitude 83-28-36.

<sup>7</sup> The coordinates for Channel 269A at Mt. Vernon are North Latitude 32-10-10 and West Longitude 82-33-09.

<sup>8</sup> The coordinates for Channel 291A at Soperton are North Latitude 32-23-19 and West Longitude 82-42-13.

NY and Bradford, PA, 50 FR 26208 (1985), and Sanibel, FL, 50 FR 32706 (1985). We will serve a copy of this Notice on the applicants.

4. Whenever an existing licensee or permittee is ordered to change frequencies in order to accommodate a new channel allotment, Commission policy requires the benefiting party to reimburse the affected station for costs incurred therewith. Jeff Davis and ALP has stated that they will jointly reimburse the licensee of Station WSNT(FM), Sandersville, Georgia, for the legitimate expenses associated with the change in channels. In addition, the Commission usually does not require a station to change its transmitter site in order to accommodate a new allotment, without the consent of the affected station. SOL Broadcasting, Inc. ("SOL"), licensee of Station WKTM(FM), Soperton, Georgia, has entered into an agreement with ALP to change its existing transmitter site in order to accommodate ALP's upgrade at Jeffersonville. Since the licensee of Station WKTM, Soperton, Georgia has consented to the proposed channel substitution, we shall not issue an *Order to Show Cause* to that licensee. However, we are herein issuing an *Order to Show Cause* to the licensee of Station WSNT(FM), Channel 228A, Sandersville, Georgia, to show why its license should not be modified as proposed.

5. In view of the above the Commission believes it would be in the public interest to seek comments on the proposal to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, with respect to the following communities:

City	Channel No.	
	Present	Proposed
Hazelhurst, Georgia	228A	228C2
Jeffersonville, Georgia	229A	229C2
Mt. Vernon, Georgia	--	269A
Sandersville, Georgia	228A	260A
Soperton, Georgia	269A	291A
Tennille, Georgia	260A	270A

6. IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Radio Station WSNT, Inc., licensee of Station WSNT(FM), Sandersville, Georgia, SHALL SHOW CAUSE why its license should not be modified to specify operation on Channel 260A in lieu of Channel 228A.

7. Pursuant to Section 1.87 of the Commission's Rules, Radio Station WSNT, Inc., may, not later than **March 30, 1992**, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. The Commission may call on Radio Station WSNT, Inc., to furnish additional information. If Radio Station WSNT, Inc., raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, Radio Station WSNT, Inc., will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order* will be

issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

8. IT IS FURTHER ORDERED, That the Secretary of the Commission SHALL SEND by Certified Mail, Return Receipt Requested, a copy of this *Notice of Proposed Rule Making and Order to Show Cause* to the following:

Sol Broad-  
casting, Inc.  
Radio Station WKTM  
Box 417  
Soperton, Georgia 30457

Radio Station  
WSNT, Inc.  
Box 150  
Sandersville, Georgia 31080

Lee M. Pierce, Sr.  
P.O. Box 731  
Sandersville,  
Georgia 31082  
(Applicant at  
Tennille, Ga.)  
(BPH-901227MB)

Broadcast Media Co.  
P.O. Box 314  
Sandersville,  
Georgia 31055  
(Applicant at  
Tennille, Ga.)  
(BPH-901227MA)

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

10. Interested parties may file comments on or before **March 30, 1992**, and reply comments on or before **April 14, 1992**, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Dennis F. Begley  
Reddy, Begley  
& Martin  
2033 M Street, N.W.,  
Suite 500  
Washington, D.C. 20036  
(Attorney for Jeff Davis  
Broadcasters, Inc.)

Lawrence J. Bernard, Jr.  
1300 19th Street, N.W.  
Suite 240  
Washington, D.C. 20036  
(Attorney for ALP  
Limited Partnership  
and Wesley James Holden)

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

12. For further information concerning this proceeding, contact Nancy J. Walls, Mass Media Bureau, (202) 634-6530. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding.

However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

#### FEDERAL COMMUNICATIONS COMMISSION

Michael C. Ruger  
Assistant Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

#### APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut - off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.